

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.5941 OF 1984

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

PRAJAPATI MANJIBHAI CHATURBHAI
VERSUS
THE SECRETARY, DEPT. OF FOOD & CIVIL SUPPLIES, & ORS.

Appearance:

MR SD PATEL for Petitiener
MS PS PARMAR for Respodnents

Coram: S.K. Keshote,J
Date of decision:3.3.97

C.A.V. JUDGMENT

Heard learned counsel for the parties.

2. Challenge is made by the petitioner to the orders annexures 'A' and 'B' of respondent No.2 & 1. The respondent No.2, under its order dated 2nd May 1983 ordered for confiscation of 168 cement bags of the petitioner. In the appeal, the respondent No.1 has allowed the appeal partly, and confiscation of 168 cement bags as ordered by the respondent No.2, was reduced to 50% of the 168 bags of cement. Hence this Special Civil Application.

3. The learned counsel for the petitioner contended that confiscation of 84 cement bags was wholly arbitrary and unjustified. The petitioner and his mother have bought the cement bags for construction of house, but due to rainy season the said cement could not be utilised. It is not the case of any mal-practice by the petitioner or selling the cement in black market.

4. On the other hand, the learned counsel for respondents, Ms. P.S. Parmar contended that the petitioner has not used this cement and as such, the authorities below have rightly passed the order for confiscation of 168 bags of cement. The Appellate Authority has taken a lenient view, otherwise, the confiscation of all the bags which were there should have been ordered.

5. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties.

6. From the facts, which are not in dispute, it is clear that the petitioner has not used the substantial bags of cement and no explanation worth the name has been given by the petitioner for the same. The admitted details of cement bags received by the petitioner are as under:

Number of cement bags received			
Date	In mother's name	In petitioner's name	Total
28.11.81	15	20	35
22.12.81		25	30
11.6.82		21	60
12.6.82		10	10

7. So from 28th November 1981 to 12th June 1982, the total bags of cement numbering 191, were received by the petitioner. The search has been made by the Department Inspector on 31st July 1982 on which date 168 bags were recovered. So the petitioner has utilised only 23 bags till 31st July 1982, though till 12th June 1982, he received in all 191 bags, i.e. during eight months he utilised only 23 bags of cement. I find sufficient merits in the contention of Ms.P.S. Parmar that the petitioner has not used this cement. There is no explanation what for the petitioner has kept the cement unused for all these months. The Appellate Authority has taken a very lenient view in the matter and confiscation of 168 bags of cement was reduced to 50% thereof. Otherwise, the order of the first authority was perfectly legal and justified. The very fact that the petitioner has not used this cement for eight months goes against him and the action taken by the respondent and the order made for confiscation of cement bags does not call for interference of this Court.

8. This petition has been filed by the petitioner under Article 227 of the Constitution. On the facts of the case on which there is no dispute, this Court may not be justified in extending its jurisdiction under Article 227 of the Constitution of India in the present case. The Essential Commodities Act, 1955 is a special legislation enacted for the fair and equal distribution of essential commodities. The legislature has, in its wisdom, not provided second appeal or revision to this Court from the orders of Appellate Authority, as made under the Act 1955. The object is to give finality to the decision of the Appellate Authority. This Court, sitting under Article 227 of the Constitution cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes. As stated earlier, the Appellate Authority, on the other hand, has taken a lenient view in the matter. There is no question of causing injustice, much less, grave injustice to the petitioner in case this Court does not interfere.

9. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

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